



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II  
290 BROADWAY  
NEW YORK, NEW YORK 10007-1866

JUN -2 2016

BY EMAIL AND REGULAR MAIL

William H. Hyatt, Jr., Esq.  
K & L Gates LLP  
One Newark Center, Tenth Floor  
Newark, NJ 07102-5285

Re: Lower Passaic River Study Area Portion of the Diamond Alkali Superfund Site  
Section 122(h) Agreement, As Amended, CERCLA Docket No. 02-2004-2011

Dear Mr. Hyatt:

This letter provides the accounting (Accounting) called for by Paragraph 15 of the Agreement Pursuant to CERCLA Section 122(h), CERCLA Docket No. 02-2004-2011, as amended (Agreement). The Accounting shows the Future Costs, defined as "all response costs to be incurred and paid by EPA in connection with the RI/FS from the Effective Date" of the Agreement.

Pursuant to Paragraph 11 and 13 of the Agreement, the Settling Parties made payments totaling \$10,000,000 to EPA between July 1, 2004 and April 1, 2006, to be used to conduct or finance response actions in connection with the LPRSA. Under two amendments to the Agreement, the Settling Parties agreed to pay an additional amount of up to \$3,150,000, in response to "Contingent Funding Demands" by EPA. EPA did make three such Contingent Funding Demands on October 20, 2006, August 27, 2007 and December 11, 2007, resulting in a total amount paid by the Settling Parties of \$13,150,000.

The Accounting summarizes information previously provided in connection with EPA's Contingent Funding Demand letters, and includes several SCORPIOS Reports generated by EPA's cost accounting system that together cover the time period of June 23, 2004 to June 30, 2007. Note that the SCORPIOS Reports exclude any EPA payroll past pay period 15 in Fiscal Year 2007. EPA began oversight for the CPG's performance of the RI/FS in pay period 16, so this should eliminate any concerns regarding overlapping.

The SCORPIOS reports are for Operable Unit (OU) 00 and OU 03, showing time spent in the relevant period, by EPA and EPA's contractors, in performing work that is chargeable as Future

Response Costs. EPA tracked Future Costs incurred in connection with the RI/FS using the OU 03 account code. The SCORPIOS Reports for OU 00 include the costs that apply to the Site generally, and which EPA distributes among the OUs as appropriate. One quarter of the costs is attributable to OU 03 during the time period covered by this Accounting.

The amount documented by the SCORPIOS Reports is \$16,891,402.46, which is greater than the \$13,150,000 paid by the Setting Parties. The balance, \$3,741,402.46, remains subject to future cost recovery efforts by EPA.

If you have any questions regarding this matter, please contact Sarah Flanagan at (212) 637-3136.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Michael Sivak".

Michael Sivak, Acting Branch Chief  
Special Projects Branch  
Emergency and Remedial Response Division

Enclosures

cc: Bill Potter, demaximis, inc.

Narrative Summary of Costs Incurred by EPA -- June 24, 2004 to June 30, 2007  
Diamond Alkali Superfund Site, Newark, New Jersey  
Lower Passaic River Study Area - Site ID: 02 96

**Operable Unit 03**

Payroll and travel (through Pay Period 15)

These costs consist of direct EPA personnel charges for time spent by EPA employees in connection with the RI/FS including reviewing technical submissions, meeting and/or conferring with contractors, meeting and/or conferring internally concerning the RI/FS, performing community relations/outreach and coordinating with Partner Agencies. Travel costs are for travel of regional and headquarters personnel to meetings related to the Lower Passaic River Study Area.

Regional:

$\$675,851.42$  (2004/2006) +  $\$328,971.01$  (2006/2007) =  $\$1,004,822.43$

Headquarters:

$\$307.66$  (2004/2006) +  $\$1,787.89$  (2006/2007) =  $\$2,095.55$

Enforcement Support Services (ESS) Contract

These costs consists of contract costs for services by Techlaw, Inc. in reviewing information and identifying parties responsible for releases of hazardous substances.

(2004/2006) =  $\$8,826.47$

Environmental Services Assistance Teams (ESAT)

These costs consist of contract costs for data validation services by Lockheed Martin Services, Inc. with respect to environmental samples collected by EPA.

$\$162,560.46$  (2004/2006) +  $\$25,337.66$  (2006/2007) =  $\$187,898.12$

Interagency Agreement (IAG)

These costs include:

1) IAG DW 15893101: Legal support by U.S. Department of Justice including but limited to meetings, discussions, negotiations.

(2004/2006) =  $\$115,533.57$

2) IAGs DW 96941915, DW 96941975: Technical support by the U.S. Army Corps of Engineers, Kansas City, for developing and undertaking remedial investigation/feasibility study including: sampling programs and sediment transport modeling, including labor, Sedflume/ERDC reviews, contract management; contractor costs include project administration, community relations support, work plan preparation, sampling/field work, modeling, report preparation/data evaluation, and feasibility study/early action evaluation.

$\$5,555,111.63$  (2004/2006) +  $\$5,794,753.43$  (2006/2007) =  $\$11,349,865.06$

3) IAG DW 89942106: Technical work performed by U.S. Department of Energy on the Superfund Contaminated Sediment Processing and Decontamination Technology Demonstration

(2006/2007) =  $\$38,497.02$

#### Other Expenditures:

These costs consist of charges for contractor support for file storage and maintenance by GRB Environmental Services, Inc.

(2006/2007) =  $\$49,992.35$

#### State Cooperative Agreement (SCA)

These costs consist of payments to Passaic River Coalition (PRC) under the Technical Assistance Grant awarded by EPA to PRC to allow PRC to obtain a technical advisor 'so that PRC could fully engage and support community input.

(2006/2007) =  $\$16,017.88$

#### Contract Lab Costs

These costs are for analytical services with respect to environmental samples collected by EPA.

$\$221,715.24$  (2004/2006) +  $\$768.03$  (2006/2007) =  $\$222,483.27$

#### Miscellaneous Costs

These costs are primarily for analytical work by Axys Analytical, and also include miscellaneous costs such as typesetting for Federal Register notices, and conference registration fees.

$\$72,901.99$  (2004/2006) +  $\$9,892.80$  (2006/2007) =  $\$82,794.79$

#### Indirect Costs

Indirect costs are those costs which are necessary to the operation of the Superfund program and the support of site cleanup efforts, but which cannot be tied directly to the efforts at any one site.

Indirect costs are allocated to particular Superfund sites using a methodology established by EPA Headquarters.

$$\text{\$2,064,281.01 (2004/2006) + \$1,714,382.54 (2006/2007) = \$3,778,663.55}$$

Total	\\$16,857,490.06
-------	------------------

### **Operable Unit 00**

#### **Payroll**

These costs consist of direct EPA personnel charges for time spent by EPA employees in performed in connection with all operable units of the Site generally, for cost tracking and accounting.

$$\text{\$3,203.89 (2004/2005) + \$1,040.39 (2005/2006) + \$4,873.74 (2006/2007) = \$9,118.02}$$

#### **Other Expenditures**

These costs consist of charges for contractor support for file storage and maintenance in connection with all operable units of the Site generally, including the RI/FS, by GRB Environmental Services, Inc.

$$\text{\$91,305.84 (2004/2006) + \$3,879.24 (2006/2007) = \$95,185.08}$$

#### **Indirect Costs**

Indirect costs are those costs which are necessary to the operation of the Superfund program and the support of site cleanup efforts, but which cannot be tied directly to the efforts at any one site. Indirect costs are allocated to particular Superfund sites using a methodology established by EPA Headquarters.

$$\text{\$970.77 (2004/2005) + \$27,980.92 (2005/2006) + \$2,394.79 (2006/2007) = \$31,346.48}$$

Subtotal OU 00	= \\$135,649.58
----------------	-----------------

$$\text{Total OU 00 = \$135,649.58 x 0.25 = \$33,912.40}$$

Total OU 03 + OU 00: \\$16,857,490.06 + \\$33,912.40	= \\$16,891,402.46
--	--------------------

Payments by CPG pursuant to Paragraph 13 of Agreement, as amended:	\\$13,150,000.00
--	------------------

Balance EPA Costs Remaining	= \\$3,741,402.46
-----------------------------	-------------------

